

Appendix J

History of Haines Borough Incorporation and Annexation

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In 1947, residents of the greater Haines area formed the Haines Independent School District. (Karl Ward, *A Short History of Haines Local Government*, 1980). Independent school districts were authorized under a 1935 Territorial law to provide a unified school system encompassing a central incorporated community, suburban areas and rural areas. (*Foundation Study*, p. 36.)

Seven other areas of Alaska besides Haines had also formed independent school districts. Those were Anchorage, Fairbanks, Juneau-Douglas, Ketchikan, Kodiak, Palmer, and Sitka. (*Id.*)

Independent school districts were not recognized under the Constitution of the State of Alaska, which took effect January 3, 1959. The Constitution provided that the legislature must enact measures for the transition of independent school districts into governmental units that were recognized under the Constitution.

Two years later, the Legislature adopted the Borough Act of 1961 establishing standards and procedures for borough formation. That Act provided that independent school districts and public utility districts must be dissolved and their functions integrated into constitutionally recognized local governments by July 1, 1963.

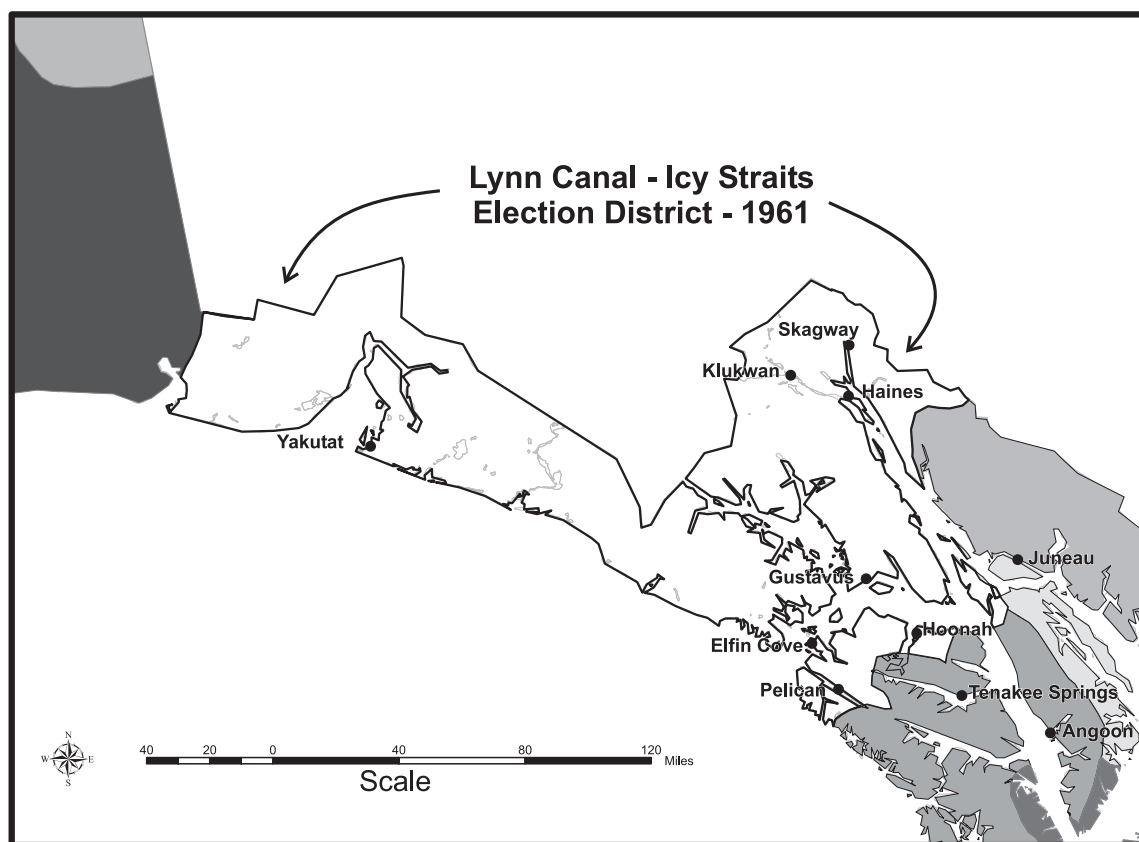
When the 1963 Legislature convened, none of the eight independent school districts had been dissolved in favor of borough governments. Less than six months remained before the July 1 deadline for dissolution of the independent school districts.

Representative John L. Rader (D-Anchorage) considered the lack of progress on the issue of dissolution of special districts and formation of boroughs to be the “greatest unresolved political problem of the State.” (John L. Rader, “Legislative

History,” in Ronald C. Cease and Jerome R. Saroff (eds.), *The Metropolitan Experiment in Alaska, A Study of Borough Government*, Frederick A. Praeger, Publishers, New York, 1968, p. 93.)

Consequently, Representative Rader drafted and introduced House Bill No. 90 extending the deadline for dissolution of independent school districts by one year to July 1, 1964. House Bill No. 90 also provided that nine areas of the state (including the eight State House election districts encompassing independent school districts) would be incorporated as boroughs by legislative fiat if the voters in those regions failed to form boroughs prior to January 1, 1964. The nine regions were designated in Section 3 of House Bill No. 90, as follows:

- (1) Anchorage Election District;
- (2) Lynn Canal - Icy Straits Election District;
- (3) Ketchikan - Prince of Wales Election District;
- (4) Kodiak Election District;
- (5) Palmer - Wasilla - Talkeetna Election District;
- (6) Sitka Election District;
- (7) Fairbanks - Fort Yukon Election District;
- (8) Juneau Election District; and
- (9) Kenai - Cook Inlet Election District.



The Lynn Canal – Icy Straits Election District was defined in the December 7, 1961, proclamation of the governor as follows:

That part of the mainland, not included in District No. 4, drained by streams flowing into Lynn Canal, Glacier Bay, Icy Strait, Cross Sound, and their tributaries, and the Pacific Ocean, to and including the area drained into Icy Bay to the west; those parts

¹ At the time of this proclamation District No. 4 was the Juneau Election District defined as:

The mainland north of District No. 2 (Wrangell Petersburg) up to and including the area drained by streams flowing into Berners Bay on the north; and that area of Admiralty Island north of District No. 2 and drained by streams flowing into Stephens Passage, Seymour Canal, Lynn Canal, and their tributaries; and including Douglas, Shelter, and Benjamin Islands, and other small adjacent islands.

of Admiralty and Chichagof Island drained by streams flowing into Icy Strait, Cross Sound, and their tributaries; and Yakobi, Lemesurier, and Pleasant Islands, and other smaller adjacent islands.¹

During the course of legislative deliberations, House Bill No. 90 was amended to exclude the Lynn Canal – Icy Straits Election District. According to a local account, the Lynn Canal – Icy Straits Election district was excluded from the Act “due apparently to a ‘political compromise’ effected by Morgan Reed, Skagway representative.” (Haines Borough, *Brief History of the Third Class Haines Borough*, p. 1.)

Following the amendment, House Bill No. 90 (commonly known as the Mandatory Borough Act) passed by one vote in the Senate. Governor Egan signed House Bill No. 90 into law.

While Haines and other communities in the Lynn Canal – Icy Straits Election District were excluded from the areas required to form boroughs under the Mandatory Borough Act, the general provisions of the Act still required the Haines Independent School District to transition to a constitutionally recognized form of government by July 1, 1964.

In March 1964, the Commission approved a proposal to incorporate a first class borough in Haines. However, voters rejected the proposal. The Haines Independent School District was dissolved on July 1, 1964, under the general provisions of the Mandatory Borough Act.

In August 1964, the Commissioner of the Alaska Department of Education formed the Haines-Port Chilkoot Special School District under an obscure statutory provision. The 1966 Legislature repealed authority for such special school districts. Even though it lacked legal authority to carry on, the Haines-Port Chilkoot Special School District continued to operate.

In the Spring of 1967, the Commission approved a second petition to incorporate a borough in Haines, this time as a second class borough. Voters also rejected that proposal. In October 1967, the State Attorney General advised the Department of Education to discontinue funding for the Haines-Port Chilkoot Special School District because it had no legal basis.

Following the action by the State Attorney General's office, the City of Haines and second class City of Port Chilkoot each organized city school districts. The State school district served students outside the two cities. Thus, three school districts served a total of 346 students in the Haines area in 1967.

A third proposal to form a borough – again, a second class borough – was prepared shortly after voters rejected the second proposal in October 1967. Excluded from the boundaries of that proposal were “The lands comprising the Klukwan Indian

Reservation established by Executive Order numbered 1764 dated April 21, 1913.” (*Incorporation of the Haines Borough*, Local Affairs Agency, January 1968, p. 3.)

The Commission's records for the first two Haines borough proposals are incomplete; however, there is no indication that the boundaries of the third proposal were different from the first two proposals. It is presumed that the Klukwan Indian Reservation was excluded from the proposed borough because, at the time, the BIA operated the school at Klukwan. Additionally, property within the reservation would not have been subject to ad valorem taxes levied by the borough. The borough boundary standard in place at the time (former AS 07.10.030(2)) provided as follows:²

² While former AS 07.10.030(2)) required the exclusion of certain areas including military reservations from organized boroughs, current law (3 AAC 110.040(d)) creates a rebuttable presumption that a proposed borough with enclaves fails to meet applicable borough incorporation standards. The current law certainly conforms better to the constitutional principles calling for boroughs to encompass an entire natural region. It is noteworthy, however, that current law (AS 29.35.160) provides that, “A military reservation in a borough is not part of the borough school district until the military mission is terminated or until inclusion in the borough school district is approved by the Department of Education and Early Development. However, operation of the military reservation schools by the borough school district may be required by the Department of Education and Early Development under AS 14.14.110. If the military mission of a military reservation terminates or continued management and control by a regional educational attendance area is disapproved by the Department of Education and Early Development, operation, management, and control of schools on the military reservation transfers to the borough school district in which the military reservation is located.”

The boundaries of the proposed organized borough shall conform generally to the natural geography of the area proposed for incorporation, shall include all areas necessary and proper for the full development of integrated local government services, but shall exclude all areas such as military reservations, glaciers, icecaps, and uninhabited and unused lands unless such areas are necessary or desirable for integrated local government.

As was the case with the first two Haines borough proposals, the third proposal to form a borough in Haines was also rejected by the voters. Residents of the Haines area subsequently lobbied the legislature to create a new class of borough; one whose areawide powers would be limited to education and taxation. The legislature enacted a law providing for third class boroughs.

On May 28, 1968, voters in Haines petitioned to incorporate a third class borough. Like the third proposal, the fourth proposal to incorporate a borough serving Haines excluded the Klukwan Indian Reservation. The Commission subsequently approved the proposal with the exclusion of another federal reservation – the military petroleum distribution facility at Lutak Inlet in accordance with the above-mentioned standard in AS 07.10.030(2).

On August 28, 1968, voters in Haines approved incorporation of the Haines Borough by a vote of 180 to 61. The Borough was incorporated following certification of the election results on August 29, 1968. The boundaries of the Borough encompassed approximately 2,200 square miles.

Klukwan's Indian reservation status was revoked on December 18, 1971 by Section 19(a) of the Alaska Native Claims Settlement Act ("ANCSA"). Shareholders of the Klukwan Village Corporation subsequently elected to acquire title to their former reserve as provided by section 19(b) of the Alaska Native Claims Settlement Act.³ That territory, comprising 892.2 acres (1.4 square miles), was conveyed to Klukwan, Incorporated, by the Bureau of Land Management on May 24, 1974.

In 1974, the Haines Borough petitioned for annexation of approximately 420 square miles to the south. The area proposed for annexation encompassed the commercial fish processing facility at Excursion Inlet as well as an estimated 442,354 acres of Tongass National Forest lands.⁴ The annexation was approved by the Commission and took effect following review by the Legislature in 1975.

In 1976, ANCSA was amended to allow the Klukwan village corporation to select twenty-three thousand and forty acres of land. The amendment also provided that "Such Corporation and the shareholders thereof shall otherwise participate fully

³ Section 19(b) of ANCSA states:

Notwithstanding any other provision of law or of this Act, any Village Corporation or Corporations may elect within two years to acquire title to the surface and subsurface estates in any reserve set aside for the use or benefit of its stockholders or members prior to the date of enactment of this Act. If two or more villages are located on such reserve the election must be made by all of the members or stockholders of the Village Corporations concerned. In such event, the Secretary shall convey the land to the Village Corporation or Corporations, subject to valid existing rights as provided in subsection 14(g), and the Village Corporation shall not be eligible for any other land selections under this Act or to any distribution of Regional Corporation funds pursuant to section 7, and the enrolled residents of the Village Corporation shall not be eligible to receive Regional Corporation stock.

⁴ The January 1968 Local Affairs Agency's report on the Haines Borough incorporation estimated that there were 474,000 acres of National Forest lands within the area proposed for incorporation. There are currently 916,354 acres of National Forest lands within the Haines Borough according to Community Financial Assistance, DCRA, (Fiscal Year 1998). Thus, it is estimated that the 1975 annexation added 442,354 acres of National Forest lands to the Haines Borough, an increase of 93.3 percent of such lands within the Borough.

in the benefits provided by this Act to the same extent as they would have participated had they not elected to acquire title to their former reserve as provided by section 19(b) of this Act.”

The amendment required the Klukwan village corporation to convey the former 892.2 acre reserve to the Chilkat Indian Village, a federal corporation organized under the Indian Reorganization Act. The amendment stipulated that the lands were to be “conveyed and confirmed to said Chilkat Indian Village in fee simple absolute, free of trust and all restrictions upon alienation, encumbrance, or otherwise.” The lands in question were subsequently conveyed to the Chilkat Indian Village on February 7, 1976.

In 1976, the Haines Borough petitioned for annexation of the former military petroleum distribution facility at Lutak Inlet. The former Klukwan Indian reservation was not included in the annexation proposal. Annexation of the former military reservation at Lutak Inlet was approved by the Commission in 1977 and took effect in 1978 following review by the Legislature.⁵

The corporate boundaries of the Haines Borough have remained unchanged since 1978.

By the mid-1980s BIA funding for schools in Alaska had been largely withdrawn, and the BIA schools had been transferred to the State.

⁵ The Chilkoot Indian Association, a federal corporation organized under the Indian Reorganization Act serving members in Haines, is seeking transfer of ownership of the former military reservation from the federal government to the Association.